

CHAPTER 77

Guam Police Department

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- §77101. Definitions.
- §77102. Guam Police Department.
- §77102. Powers and Duties of Department.
- §77104. Department to Enforce Highway Safety.
- §77105. Department to Enforce Governmental Regulations.
- §77106. Commanding Assistance of Citizens.
- §77107. Power of the Chief of Police.
- §77108. Authority to Hire Attorney.
- §77109. Appointment of the Chief of Police.
- §77110. Appointment of Deputy Chief of Police.
- §77110.1. Police Commander.
- §77111. Oath of Chief of Police and Deputy Chief of Police.
- §77112. Powers and Duties of the Police Commander.
- §77113. Department; Appointment; Examination and Selection of Applications.
- §77114. Minimum Qualifications.
- §77115. Oath of Police Officer.
- §77116. General Orders or Directives.
- §77117. Restrictions on Police Officers; Personal and Property Rights of Others; Political Contests.
- §77118. Performance Reports and Records.
- §77119. Assignment of Police Officers.
- §77120. Headquarters and Police Stations.
- §77121. Uniform, Insignia and Badge of Guam Police.
- §77122. Use of Uniform.
- §77123. Wearing Uniform by Other Persons Prohibited.
- §77124. Supplies and Equipment of the Department.
- §77125. Damage or Loss of Property by Neglect; Deduction from Pay.
- §77126. Accountability of Funds.
- §77127. Organization of Department.
- §77128. Fingerprints, Identifying Data, Disposition Report Required.
- §77129. Confidentiality of Records.
- §77130. Reporting of Crime Statistics.
- §77131. Establishment of Procedures for Access to Criminal Record Information.
- §77132. Restrictions on Reporting.
- §77133. Reporting Police Officer Violations.
- §77134. Fees.

§77101. Definitions. (a) *Crimes* for which criminal offender information is required means any offense as

defined in Title 9 GCA §1.18(a);

(b) *Criminal justice agency* means any agency of the government of Guam or U.S. Government having law enforcement functions.

(c) *Criminal offender information* means records and related data fingerprints received and compiled by the Department for purposes of identifying criminal offenders and alleged offenders, records of arrests and the nature and disposition of criminal charges, including sentencing, confinement and release, but such information shall be restricted to that recorded as the result of the initiation of a criminal proceeding or of any related later proceedings.

(d) *Department* means the Guam Police Department established pursuant to Section 77102 of this Chapter;

(e) *Law enforcement agencies* means police departments of any state or possession of the United States or a law enforcement agency of the federal government;

(f) *Police officer* means an employee of the department, who is charged with preserving the public peace and enforcing laws and court orders, and is appointed pursuant to this Chapter and as defined in 8 GCA §5.55(c), or is a civilian volunteer police reserve appointed pursuant to 10 GCA Chapter 66.

§77102. Guam Police Department. (a) There is established within the executive branch of the government of Guam the Guam Police Department.

(b) The director or head of the Guam Police Department shall be known as the *Chief of Police*, which shall be an unclassified position appointed by the Governor, subject to confirmation by the Guam Legislature.

(c) The deputy director of the Guam Police Department shall be known as the *Deputy Chief of Police* which shall be an unclassified position appointed by the Chief of Police.

§77103. Powers and Duties of Department. (a) The Department is charged with the enforcement of all criminal laws. Each police officer is authorized to:

- (1) Protect life and property;
- (2) Enforce the law;
- (3) Prevent crime;
- (4) Preserve the peace;
- (5) Arrest violators pursuant to Title 8 Guam Code Annotated;
- (6) Serve the public;
- (7) Conduct searches and seizures of property pursuant to Title 8 Guam Code Annotated; and
- (8) Perform the duties of a peace officer.

(b) The Department is authorized to cooperate with any Federal, state, national or international law enforcement agency, including any law enforcement entity of any possession of the United States, where a reciprocal agreement exists in detecting crime, apprehending criminal offenders and preserving law and order.

(c) The Guam Police Department shall have jurisdiction within the Territory of Guam over all lands, whether titled to the government or not, including submerged lands, all waterways whether navigable or not,

and over all air space above such land and waterways with respect to which the Territory has jurisdiction.

§77104. Department to Enforce Highway Safety. The Department shall enforce all laws relating to the operation of vehicles on public roadways within the Territory. A police officer is authorized to arrest or cite persons violating any provision of Title 16, Guam Code Annotated, Guam Vehicle Code.

§77105. Department to Enforce Governmental Regulations. The Department, upon the request of any other branch or department of the government, may enforce criminal laws or any regulation which such branch or department is charged to enforce.

§77106. Commanding Assistance of Citizens. The Chief of Police may establish guidelines, with the approval of the Attorney General, enabling a police officer in an emergency to direct and command the assistance of any able-bodied person to aid in maintaining law and order.

§77107. Power of the Chief of Police. The Chief of Police shall have the following duties:

(a) to adopt, internal standard operating procedures, general orders or directives, administrative and operational standards, and subject to the provisions of the Administrative Adjudication Law, rules and regulations for the conduct and efficient operation of the Department;

(b) to prepare the Department's annual budget for approval by the Governor and submission to the Guam Legislature;

(c) to submit an annual report to the Governor and the Guam Legislature;

(d) to receive, consider and investigate allegations brought by the public concerning any conduct of the Department through its officers or employees, and to take appropriate action thereon;

(e) to maintain a chronology of information concerning the effectiveness of the Department's operation;

(f) to require the Department to maintain pace with current professional developments and community standards; and

(g) to adopt appropriate rules, guidelines and policies to insure the Department's responsiveness to the safety, security and peace-keeping needs of the community.

Section 77108. Authority to Hire Attorney. (a) the Department may employ an attorney to assist and represent it in all civil matters. The Attorney General shall represent the Department in litigation in which the Department is interested, provided that the Attorney General may designate the Department's attorney as a Special Assistant Attorney General for this purpose.

(b) The Department may set the terms and conditions of employment for the attorney, the compensation of which shall be established in accordance with 4 GCA §6208 as a full-time employee, or as an independent consultant, or may utilize the services of a law firm. The attorney shall be admitted to the practice of law in the Territory of Guam.

§77109. Appointment of the Chief of Police. The Chief of Police shall be appointed by the Governor with the advice and consent of the Guam Legislature and shall meet the following qualifications:

- (a) be at least thirty-five (35) years of age; and
- (b) have no less than fifteen (15) years of progressive experience in a governmental law enforcement position, including at least five (5) years at the supervisory command level and five (5) years in a senior position with law enforcement management responsibilities; and either
- (c) graduation with a bachelor's degree in Police Science, Criminal Justice Administration or closely related field or discipline at a nationally accredited institution; or
- (d) graduation from a recognized enforcement management training institution, including, but not limited to, the FBI National Academy or the Northwestern Traffic Institute Police Staff Command Course, or nationally recognized law enforcement management institution; and
- (e) have no felony, domestic or family violence convictions; and
- (f) submit to and pass a drug screening test, including but not limited to, urinalysis testing; and
- (g) be of good health and good moral character; and
- (h) submit to psychological testing; and
- (i) submit to and pass a polygraph examination.
- (j) No person shall be appointed as Chief of Police before a thorough investigation of the appointee's background and moral character is completed.

§77110. Appointment of Deputy Chief of Police. The Chief of Police shall appoint a Deputy Chief of Police who shall occupy a position in the unclassified service. The Deputy Chief of Police shall perform the duties as designated by the Chief of Police. The Deputy Chief shall meet the following qualifications:

- (a) be at least thirty-five (35) years of age; and
- (b) have no less than ten (10) years of progressive management experience in local or Federal governmental law enforcement, including at least three (3) years in an executive command level position; and either
- (c) graduated with a bachelor's degree in Police Science, Criminal Justice Administration, or closely related field or discipline, at a nationally accredited institution; or
- (d) graduated from a recognized law enforcement management training institution, including, but not limited, to the FBI National Academy or the Northwestern Traffic Institute Police Staff Command Course, or nationally recognized law enforcement management institution; and
- (e) have no felony, domestic or family violence conviction; and
- (f) submit to and pass a drug screening test, including, but not limited to, a urinalysis test; and
- (g) be of good health and good moral character; and
- (h) submit to psychological testing; and
- (i) submit to and pass a polygraph examination.

(j) No person shall be appointed as Deputy Chief of Police before a thorough investigation of the appointee's background and moral character is completed.

§77110.1. Police Commander. The Chief of Police shall select a *Police Commander*, who shall be a uniformed classified officer to hold the rank of Colonel. The Police Commander shall meet the following minimum qualifications, in addition to those prescribed by the Civil Service Commission:

(a) be at least thirty (30) years of age; and

(b) graduated with a bachelor's degree in Police Science, Criminal Justice Administration, or closely related field or discipline, at a nationally accredited institution; and

(c) have no felony, domestic or family violence conviction; and

(d) submit to and pass a drug screening test, including, but not limited to, a urinalysis test.

§77111. Oath of Chief of Police and Deputy Chief of Police. The Chief of Police and Deputy Chief of Police, before assuming their duties, each shall take and subscribe to an oath of office.

§77112. Powers and Duties of the Police Commander. In the absence or incapacity of the Chief of Police, the Police Commander shall possess all the powers of the Chief of Police, act as the head of the Department, and shall further perform such additional duties as the Chief of Police may prescribe. In the absence of either the Chief of Police, or the Police Commander, the Deputy Chief of Police shall be the acting Chief of Police.

§77113. Department; Appointment; Examination and Selection of Applicants. The Chief of Police shall appoint a police force consisting of commissioned officers, noncommissioned officers and police officers who are, in the judgment of the Chief of Police, necessary to the performance of the duties of the Department. The Chief of Police shall, in accordance with the laws of the Territory, arrange for the examination and selection of applicants, and to establish ranks and grades.

§77114. Minimum Qualifications. (a) Notwithstanding other provisions of law to the contrary, persons appointed as police officers shall:

- (1) be a resident of the Territory of Guam and a U.S. citizen;
- (2) be of good health and good moral character;
- (3) be over the age of nineteen (19) years;
- (4) be a high school graduate or equivalent, but the Chief of Police may set higher academic qualifications for all applicants as the Chief of Police considers necessary;
- (5) submit to and pass a drug screening test, including but not limited to a urinalysis test;
- (6) submit to psychological testing; and
- (7) submit to and pass a polygraph examination.

(b) No person shall be appointed a police officer who has not established satisfactory evidence of qualifications by passing physical and written examinations based upon standards relevant to the duties to be performed, which standards shall be established by the Chief of Police. If in the Chief of Police's judgment, and in the best interest of

the Department, the Chief of Police may waive the physical standards established for the position.

(c) No person shall be appointed a police officer who has been convicted in any civilian or military court of a felony, a crime involving moral turpitude, a crime of domestic or family violence, or who has been administratively pardoned of any crime.

(d) No person shall be appointed a police officer before a thorough investigation of the applicant's background and moral character is completed.

(e) A police officer dismissed for cause shall be permanently ineligible for reappointment to any position in the Department. An officer who resigns for the sole purpose of negating or averting a pending or anticipated disciplinary action to dismiss the officer may be ineligible for reappointment.

§77115. Oath of Police Officer. Each police officer shall take and subscribe to the following oath of office:

'I solemnly swear (or affirm) that I will faithfully support the Constitution of the United States, the laws of the United States applicable to Guam, and the laws of Guam, and that I will conscientiously and impartially discharge my duties as an officer of the Guam Police Department.'

§77116. General Orders or Directives. The Chief of Police, or the Chief of Police's designee, shall prescribe by general order or directive the necessary instructions to Department employees as to their official duties, functions and responsibilities.

§77117. Restrictions on Police Officers; Personal and Property Rights of Others; Political Contests. (a) All police officers are subject to the following restrictions:

(1) no police officer shall in any way interfere with the rights or property of any person, except where such interference is permitted by law;

(2) no police officer shall accept any other employment which will conflict with the police officer's duties as a member of the Guam Police Department;

(3) no police officer shall make any loan or gift of money to any other police officer exceeding an annual aggregate monetary value of Two Hundred Fifty Dollars (\$250.00), and

(4) notwithstanding any law to the contrary, no police officer shall in any way be active or participate in any political contest of any general or special election, except to cast the police officer's own ballot. Except as may be required to enforce the law or to cast the officer's own vote, no police officer shall remain in or about a voting precinct.

§77118. Performance Reports and Records. Under rules and regulations promulgated by the Chief of Police, all police officers shall be required to keep a record of the time spent in the performance of their various duties and to report the same as the Chief of Police shall order.

§77119. Assignment of Police Officers. The Chief of Police, or his designee, may assign police officers consistent with the needs of the Department to the villages so as to be the most efficient in carrying out the purposes of the Department to preserve the peace, to enforce the law and to prevent and detect crime.

§77120. Headquarters and Police Stations. With the approval of the Governor, the Chief of Police may

establish headquarters and police stations at such places as permitted by law and as may be advisable for the protection of the people. With the approval of the Governor, the Chief of Police may use government lands and buildings for the accommodation of police officers and their vehicles and equipment.

§77121. Uniform, Insignia and Badge of Guam Police. (a) The government of Guam shall provide police officers with standard uniforms. Subject to detailed regulations and specifications prescribed by the Chief of Police, the uniform shall be of standard pattern and distinctive design.

(b) The badge shall be a shield measuring approximately three and one-half (3 1/2) inches in length, in the center of which shall be imposed in relief, a facsimile of the seal of the Territory of Guam. The badge issued to commissioned officers shall be of a composition metal in similitude of gold, and that issued to other officers shall be of a composition metal in similitude of silver.

§77122. Use of Uniform. The Chief of Police shall direct appropriate uniform use.

(a) The Chief of Police shall identify uniformed activity and direct the use of uniforms by Departmental personnel.

(b) The Chief of Police may direct that certain police officers serve in civilian clothing.

§77123. Wearing Uniform by other Persons Prohibited. (a) No person other than a police officer shall wear, use or order to be worn or used, copy or imitate in any respect or manner the standard uniform and badge.

(b) Any person violating this Section is guilty of a

misdemeanor and shall be punished by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment for not more than six (6) months, or both.

§77124. Supplies and Equipment of the Department.

The government shall provide the police officers with emergency and first aid outfits, weapons, motor vehicles, and all other supplies and equipment necessary to carry out the mission of the Department. All such property shall remain the property of the government. When any Department property, supplies or equipment becomes surplus, obsolete or unused, it shall be disposed of as provided by law.

§77125. Damage or Loss of Property by Neglect; Deduction from Pay. (a) The Chief of Police may take disciplinary action against any member of the Department who:

(1) while making unauthorized use of Department property, causes loss or damage to the property; or

(2) while making authorized use of Department property, is grossly negligent in using or caring for the property and causes loss or damage to the property.

(b) If it is shown to the satisfaction of the Chief of Police that the property was lost or damaged in any manner described in Subsection (a) of this Section, there shall be incrementally deducted from the pay of the responsible member the amount of money necessary to repair or replace the article, or articles, damaged, lost or destroyed based upon the value at the time of loss or damage.

§77126. Accountability of Funds. (a) The Chief of Police shall adopt regulations to insure that public funds appropriated to the Department are subject to strict

accountability under generally accepted accounting practices.

(b) No police officer shall make any payment of public funds to any person without maintaining an accurate record of the date and amount paid and the identity of the person to whom disbursement was made and the purpose therefor.

(c) Before any vice funds can be expended, the Chief of Police must authenticate any request for funds. If the Chief of Police finds that the funds have been disbursed in an unauthorized manner, he may discipline the officers involved, but the identity of the person to whom the disbursement was made may be confidential.

(d) Any person violating Subsection (b) of this Section is guilty of a misdemeanor and shall be punished by a fine or not more than One Thousand Dollars (\$1,000.00) or by imprisonment for not more than one (1) year, or both.

§77127. Organization of Department. The Chief of Police shall, so far as is practicable and expedient to do so, organize the work of the Department so that:

(a) the various duties required of the Department may be assigned to appropriate divisions to be performed by persons experienced and qualified for such respective kinds of work;

(b) the duties of police officers are coordinated so that when an officer is not engaged in particular duty specified or directed to be done, or not then requiring attention, such officer shall perform the other duties required by the Department; and

(c) the cooperation of other officers and employees may be secured for the purposes of avoiding duplication of time and effort.

§77128. Fingerprints, Identifying Data, Disposition Report Required. (a) Immediately upon the arrest of a person for a crime, the Department shall place the required fingerprints and identifying data on forms prescribed or furnished by the Department, photograph the arrested person, and promptly transmit the form and photograph to the appropriate division.

(b) The Department may record, in addition to fingerprints, the palm prints, sole prints and toe prints, or other personal identifiers, when, in the discretion of the Department, it is necessary to effect identification of the persons, or to the investigation of the crime charged.

§77129. Confidentiality of Records. The fingerprints, photographs, records and police reports compiled under this Chapter are confidential and exempt from public inspection except:

(a) as ordered by a court; or

(b) as provided in the 'Freedom of Information Act_ or 'Sunshine Act_; or

(c) as required or provided for under Federal law.

§77130. Reporting of Crime Statistics. The Chief of Police shall report to the Governor and the Guam Legislature statistics concerning crimes in the Territory of Guam:

(a) as directed by the Governor for purposes of the National Incident Based Reporting System;

(b) as otherwise directed by the Governor concerning general categories of criminal activities, but not individual criminal records; or

(c) as requested by the Legislative Chairperson with oversight jurisdiction.

§77131. Establishment of Procedures for Access to Criminal Record Information. (a) Subject to the provisions of 8 GCA Chapter 11, the Chief of Police shall promulgate rules in accordance with the Administrative Adjudication Law, establishing procedures:

(1) limiting access of information to criminal justice agencies when the information is required to perform a duty or function expressly required by statute, and

(2) providing for purging or expunging of inaccurate and incomplete arrest, charge and disposition information.

(b) As needed to implement rules promulgated pursuant to Subsection (a) of this Section, the Chief of Police may adopt or issue supplemental orders and directives.

§77132. Restrictions on Reporting. (a) Neither the Department nor a police officer shall make or engage in any investigation of political activity.

(b) Any person violating this Section shall be guilty of a misdemeanor and shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment for not more than one (1) year, or both.

§77133. Reporting Police Officer Violations. (a) Any person may file a written complaint with any police officer or the Guam Community Police Review Commission (*Commission*) alleging the commission of a crime or misconduct on the part of a police officer or employee of the Department. A police officer shall, upon receipt of any credible information alleging the commission of a crime by

any police officer or Department employee, forward within forty-eight (48) hours the information so received to the Chief of Police. The Chief of Police shall forward the alleged violations to the Internal Affairs unit of the Department and to the Commission, and shall further forward a copy of the alleged violations to the Attorney General.

(b) The Chief of Police shall, within thirty (30) working days of receipt of the information described in Subsection (a) of this Section, prepare a statement open to the public indicating the preliminary disposition of the allegation. The Chief of Police shall prepare a summary of all allegations filed and their final disposition in the Department's annual report.

(c) Upon receipt of the report the Attorney General shall review all records and other information submitted and may initiate an independent investigation of the alleged violation.

(d) Any police officer or Department employee who fails to forward the information or fails to make reports required by this Section shall be guilty of a misdemeanor and shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment for not more than one (1) year, or both.

(e) The Chief of Police shall inform the Commission in writing, within three (3) days of disposition, of disciplinary outcomes of cases, including adjudication and discipline imposed. All such information shall be kept confidential, *unless* otherwise permitted or required by law.

(f) Nothing herein shall prohibit the Commission from jointly or separately investigating the conduct of a member of the Department, or carrying out any of its authority and duties authorized pursuant to Chapter 78 of this Title.

SOURCE: Repealed/reenacted by P.L. 25-46:3.

§77134. Fees. (a) The Chief of Police may prescribe in accordance with the Administrative Adjudication Law fees to be charged and collected by the Department that are directly related to the need of the agency to recover administrative costs in servicing the public. These fees shall be deposited in a special account known as the 'Police Services Fund', established separate and apart from the General Fund to be administered by the Director of Administration for the benefit of the Guam Police Department. The Guam Legislature shall make appropriations from the 'Police Services Fund' for the purpose of funding the general operational needs of the Guam Police Department on a fiscal year basis. These funds, once appropriated to the Department, are not subject to the transfer authority of the Governor.

(b) As used in this Subsection, 'administrative costs in servicing the public' means costs incurred in providing administrative services, such as issuing licenses or permits, providing police clearances for private parties and taking finger prints, but does not include performing essential crime prevention and law enforcement duties described in Section 77103 of this Chapter.

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